

#17/Kaplan
5/14/02
Heiter

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 060953/0122

re patent application of

Herbert WOLTER et al.

Serial No. 09/393,647

Group Art Unit: 1723

Filed: September 10, 1999

Examiner: A. Fortuna

For: SEMIPERMEABLE MEMBRANES

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TC 1700

**REQUEST TO WITHDRAW THE NON-RESPONSIVE HOLDING AND TO
WITHDRAW THE ELECTION REQUIREMENT**

Commissioner for Patents
Washington, D.C. 20231

Sir:

This is in response to the communication mailed April 24, 2002 holding the response filed February 4, 2002 non-responsive. Since the February 4, 2002 Response was fully responsive to the January 2, 2002 Office Action, Applicants hereby request that the PTO withdraw the non-responsive holding. Moreover, for the reasons set forth in the Response filed February 4, 2002 the election of species is improper and should be withdrawn.

REMARKS

On January 2, 2002 the PTO issued a communication requiring an election between compounds of the formulae I-V, stating that the species are patentably distinct. Applicants responded to the election of species on February 4, 2002, provisionally electing species III with traverse. On April 24, 2002 the PTO improperly held that Applicants' February 4, 2002 response was non-responsive to the January 2, 2002 Office Action. Since the February 4, 2002 response was fully responsive to the January 2, 2002 Office Action, the April 24, 2002 communication holding the February 4, 2002 response non-responsive should be withdrawn. For the reasons set forth in the February 4, 2002 response, the election of species requirement is improper and should be withdrawn.

During a telephone conversation with the undersigned on May 7, 2002, Examiner Fortuna indicated that upon filing a request the PTO would withdraw the April 24, 2002 holding of non-responsiveness and also withdraw the January 2, 2002 election of species requirement. Examiner Fortuna informed the undersigned that claims 1-3 and 5-26, with species I-V would be examined together.

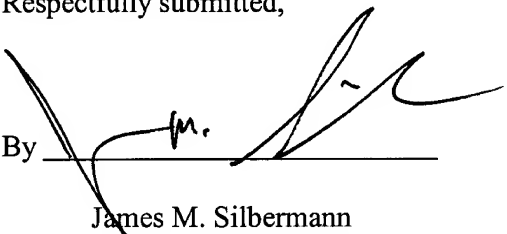
An early notice of allowance is earnestly solicited. Should there be any questions, Examiner Fortuna is courteously invited to contact the undersigned at the telephone number shown below.

Respectfully submitted,

Date May 8, 2002

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By


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Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 19-0741 for any such fees; and applicant(s) hereby petition for any needed extension of time.